

**REMARKS**

Claims 1-3, 10, 12-14, 16, 18-20, 22-33, 37, 38, and 40-55 were presented for examination in the present application, and claims 1-3, 10, 12-14, 18, 22-28, 30-33, 37, 38, 40, 43, 46-50, 53 and 54 are presented for consideration upon entry of this Amendment. Claims 4-9, 11, 15-17, 19-21, 29, 34-36, 39, 41, 42, 44, 45, 51, 52 and 55 are canceled. Claims 1, 22, 32 and 46 are independent. Reconsideration of the application is respectfully requested.

Applicants gratefully appreciate the courtesies extended by the Examiner during the telephone interview conducted on June 9, 2010 ("Examiner Interview"). In accordance with that interview, Applicants submit the following.

Claims 1-3, 10, 12-14, 16, 18, 19, 22-33, 37, 38, 40-44, 46-52 and 54 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Publication No. 2003/0193961 to Moore et al. (hereinafter "Moore"). Claims 16, 19, 29, 41, 42, 44, 51 and 52 are canceled rendering the rejection thereto moot.

Claim 1 recites a communication device having a messaging client and an availability detector. The availability detector detects availability of a destination device when a call is placed from the communication device by a user to the destination device.

Independent claim 32 recites a method executed by a communication device, comprising detecting availability of a destination device by the communication device when a call is placed from the communication device to the destination device.

As acknowledged by the Examiner in the Examiner Interview, Moore fails to disclose a communication device that has a messaging client and an availability detector. In contrast, Moore discloses a system having separate devices.

The Office Action contends that Moore provides an availability detector that detects availability of a destination device when a call is placed from said communication device by a user to said destination device (page 5, paragraphs 66-67; the caller attempts). Paragraph 66 of Moore provides “the caller may attempt a telephone call to a called party by dialing the called party’s telephone number in the traditional manner. Upon recognition by some element of the telephone system or the enhanced services system that the call is busy or is unanswered, the caller may be connected to the enhanced services platform.” Therefore, some element of the telephone system or the enhanced services system of Moore determines that a call attempted by the caller is busy or is unanswered. Therefore, Moore fails to disclose or suggest a communication device having an availability detector, as recited by claim 1, or detecting availability of a destination device by the communication device when a call is placed from the communication device to the destination device, as recited by claim 32.

Claim 1 further recites that then the availability detector indicates that the destination device is unavailable, the messaging client of the communication device has a trigger signal provided directly thereto so that the messaging client: (a) immediately obtains address information of the destination device; (b) upon obtaining the address information, then immediately generates a message on the communication device; and (c) upon generating the message, the user of the communication device then enters a command to send the message via the communication device to the destination device in accordance with the address information.

Independent claim 32 further recites a method executed by a communication device, comprising if the destination device is unavailable, then the communication device: (a) immediately obtaining address information of the destination device on the communication device; (b) upon obtaining the address information, then immediately generating a message on the communication device; and (c) upon generating the

message, sending the message to the destination device in accordance with the address information, upon receipt of a command from a user of the communication device.

The Office Action contends that the messaging client of the communications device, when said detector indicates that the destination device is unavailable, obtains addressing information of the destination device on page 16, lines 179 of Moore. Applicant believes that page 16, lines 179 in the Office Action should read page 16, paragraph [0179]. Paragraph [0179] of Moore provides that the calling party directly calls the called party by telephone in the usual manner, and, when it is detected that the called party telephone is busy or ringing without being answered, the calling party is connected to the voice processing system so that the caller may be offered alternative ways of reaching the called party. Thus, paragraph [0179] of Moore merely provides that the caller may be offered alternative ways of reaching the called party by a voice processing system that is separate from the telephone used by the calling party to direct calls the called party. In addition, paragraph [0179] of Moore fails to disclose or suggest addressing information. Therefore, Moore fails to disclose or suggest that when the availability detector indicates that the destination device is unavailable, the messaging client of the communication device directly receives a trigger signal so that the messaging client: immediately obtains address information of the destination device, as recited in claim 1, or a method executed by a communication device comprising if the destination device is unavailable, then the communication device: immediately obtaining address information of the destination device on the communication device, as recited by claim 32.

The Office Action further asserts that page 16, paragraphs 180-184 of Moore discloses generating a message on said communication device. Paragraph [0181], lines 1-7 of Moore provides "[r]eferring to FIG. 7A, process 700 commences at step 702 upon a caller calling a voice processing system, such as by calling party 101 contacting an operator 52 or other interactive respondent within voice processing system 103.

Next, in step 704, the caller specifies to the operator a particular called party that the caller desires to contact." Paragraph [0183], lines 2-6 of Moore provides "...the operator attempts to reach the called party by telephone, as represented called party phone 138 in FIG. 1. Thus far, process 700 is similar to the placement of a collect call." Paragraph [0184], lines 1-7 of Moore provides "[i]f the caller accepts the call in step 716, then, in step 718, the caller is connected to the called party and usage-based billing may commence. Once the call is established, the operator is no longer needed on the line and, in practice, the connections, operator(s) and other resources employed within the services platform to initiate the call are released." Therefore, page 16, paragraphs 180-184 of Moore provides a caller calling a voice processing system, the operator attempts to reach the called party by telephone, and the caller accepts the call. Clearly, paragraphs 180-184 of Moore fail to disclose or suggest that upon obtaining the address information, then immediately generating a message on the communication device, as recited by claims 1 and 32.

The Office Action asserts that pages 16, 17, paragraphs 184, 186 and 187 of Moore discloses sending said message via said communication device to said destination device in accordance with said addressing information, upon receipt of a command from said user of said communication device. Paragraph [0187], lines 9-21 of Moore provides "in step 720, if the operator does not have access to sufficient information to reach the called party by instant messaging, then step 722 is performed wherein the operator makes known to the caller that alternatives, such as chat, may be available and the operator asks the caller for contact information, if known. In step 724, if the caller wants to attempt a chat session as an alternative then execution proceeds to step 726, wherein the caller provides contact information by which the operator may attempt to reach the called party by chat or instant messaging. In step 728, the operator uses the contact information obtained in step 726 to then determine if the called party is presently available through a chat system." Therefore, pages 16, 17, paragraphs 184, 186 and 187 of Moore provide that the operator asks the caller for contact information and the operator may attempt to reach the called party by chat or instant messaging.

Thus, Moore fails to disclose or suggest that upon generating the message, the user of the communication device then enters a command to send the message via the communication device to the destination device in accordance with the address information, as recited by claim 1, or upon generating the message, sending the message to the destination device in accordance with the address information, upon receipt of a command from a user of the communication device, as recited by claim 32.

Accordingly, Applicants respectfully submit that Moore fails to disclose or suggest claims 1 and 32.

Claims 2, 3, 10, 12-14, 18 and 54 depend from claim 1, and claims 33, 37, 38, 40 and 43 depend from claim 32. By virtue of this dependence, claims 2, 3, 10, 12-14, 18, 33, 37, 38, 40 and 43 are also patentable over Moore.

Independent claim 22 recites an originating communication device and a communication system comprising an availability detector and a message sender. Independent claim 22 also recites that the availability detector detects unavailability of a destination device when a call is placed from the originating communication device to a telephone number of the destination device, and that the message sender associated with the availability detector sends to the originating communication device a message comprising the telephone number of the destination device when the availability detector indicates unavailability of the destination device.

Independent claim 46 recites detecting availability of the destination device by a communication system. Independent claim 46 also recites if the destination device is unavailable, then the communication system sending to the originating communication device a message comprising a telephone number of the destination device.

The Office Action asserts that independent claims 22 and 46 are rejected for similar reasons as stated above.

Applicants respectfully submit that the Office Action does not assert and Moore at least also fails to disclose or suggest that the availability detector detects unavailability of a destination device when a call is placed from the originating communication device to a telephone number of the destination device, and that the message sender associated with the availability detector sends to the originating communication device a message comprising the telephone number of the destination device when the availability detector indicates unavailability of the destination device, as recited by claim 22, or if the destination device is unavailable, then the communication system sending to the originating communication device a message comprising the telephone number of the destination device, as recited by claim 46.

Accordingly, Applicants respectfully submit that Moore fails to disclose or suggest claims 22 and 46.

Claims 23-28, 30 and 31 depend from claim 22, and claims 47-50 depend from claim 46. By virtue of this dependence, claims 23-28, 30, 31 and 47-50 are also patentable over Moore.

Claims 20 and 45 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Moore in view of U.S. Patent Publication No. 2004/185828 to Engelhart (hereinafter "Engelhart "). Claims 20 and 45 are canceled. The features of claim 20 are incorporated into dependent claim 18 and the features of claim 45 are incorporated into dependent claim 43. Claim 18 depends from claim 1 and claim 43 depends from claim 32. As discussed above, claims 1 and 32 are patentable over Moore. Applicants respectfully submit that the Office Action fails to assert that Engelhart remedies the deficiencies described above for Moore. Accordingly, Applicants respectfully submit that claims 18 and 42 are patentable at least by virtue of their dependence on claims 1 and 32.

Claim 53 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Moore in view of U.S. Patent Publication No. 2004/0130580 to Howard et al. (hereinafter "Howard"). Claim 53 depends from claim 1. As discussed above, claim 1 is patentable over Moore. Applicants respectfully submit that the Office Action fails to assert that Howard remedies the deficiencies described above for Moore. Accordingly, Applicants respectfully submit that claim 53 is patentable at least by virtue of its dependence on claim 1.

Claim 55 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Moore in view of U.S. Patent No. 6,922,123 to LeClair et al.. Claim 55 is canceled rendering the rejection thereto moot.

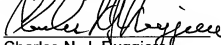
Applicants are respectfully requesting reconsideration and a withdrawal of the section 102(e) and 103(a) rejection of claims 1-3, 10, 12-14, 18, 22-28, 30-33, 37, 38, 40, 43, 46-50, 53 and 54.

In view of the above, it is respectfully submitted that the present application is in condition for allowance. Such action is solicited.

If for any reason the Examiner feels that consultation with Applicant's attorney would be helpful in the advancement of the prosecution, the Examiner is invited to call the telephone number below.

July 6, 2010

Respectfully submitted,



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